

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROBERT VANDERPLOEG,)
)
)
Plaintiff,)
) CIVIL ACTION
vs.)
) Case No. 4:20-CV-02474
NASA POINT, L.P.,)
)
Defendant.)

**PLAINTIFF'S MOTION FOR CLERK'S DEFAULT
AGAINST DEFENDANT**

Plaintiff, ROBERT VANDERPLOEG, ("Plaintiff"), by and through the undersigned counsel, and pursuant to Fed. R. Civ. P. 55, hereby moves the Court to enter an order of default against Defendant, NASA POINT, L.P., for its failure to file an answer, or otherwise plead to Plaintiff's Complaint. In support of this request, Plaintiff states as follows:

1. A Complaint in this action was filed on July 15, 2020 [D.E. 1].
2. The Complaint was brought against Defendant, NASA POINT, L.P., for alleged violations of Title III of the ADA.
3. A copy of the Complaint and Summons was served on Defendant, NASA POINT, L.P., by delivering said Complaint and Summons to Biao Li, Registered Agent, at the address of 2945 N. Island Drive, Seabrook, TX 77586 on July 23, 2020. [See Affidavit of Return of Service, D.E. 6].
4. Defendant failed to file a timely response to the Complaint.
5. Defendant is neither a minor nor an incompetent person, as required by Fed. R. Civil P. 55(b) (1).

6. Defendant is not in the military service, as required by 50 U.S.C. app. 521.
7. Contrary to Fed. R. Civ. P. 12, Defendant has failed to file an answer or otherwise respond to Plaintiff's Complaint within the period of time prescribed by the Federal Rules of Civil Procedure. To date, over twenty days after the proper service of Plaintiff's Complaint upon Defendant, Defendant has yet to file an answer or otherwise respond to Plaintiff's Complaint.

CERTIFICATE OF GOOD-FAITH CONFERENCE

As the Defendant, NASA POINT, L.P, is a business entity and is, therefore, required to retain counsel, the only conference Plaintiff is permitted to have is with Defendant's counsel. No counsel has filed a notice of appearance and, therefore, no conference was possible prior to the filing of this Motion. On August 25, 2020, Plaintiff mailed a default warning letter and enclosed a copy of this Motion for Clerk's Default to Defendant, NASA POINT, L.P., c/o Biao Li, Registered Agent, 2945 N. Island Drive, Seabrook, TX 77586 via Certified Mail, Return Receipt Requested. The letter provided a deadline to contact the undersigned by September 4, 2020. No response was forthcoming from Defendant.

WHEREFORE, Plaintiff respectfully requests that the Clerk enter a default against Defendant, NASA POINT, L.P, for Defendant's failure to file an answer or otherwise respond to Plaintiff's Complaint.

I hereby swear and affirm that the statements made in this Verified Motion for Clerk's Default against Defendant, NASA POINT, L.P., are true and correct to the best of my knowledge.

Respectfully submitted this 8th day of September, 2020.

/s/ Douglas S. Schapiro
Douglas S. Schapiro, Esq.
Southern District of Texas ID No. 3182479
The Schapiro Law Group, P.L
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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY, a true and correct copy of the above and foregoing has been filed electronically to the Clerk of the Court using CM/ECF/system, and mailed by certified mail to Defendant, NASA POINT, L.P., on September 8, 2020 at:

NASA POINT, L.P.
c/o Biao Li, Registered Agent
2945 N. Island Drive
Seabrook, TX 77586

/s/ Douglas S. Schapiro
Douglas S. Schapiro, Esq.
Southern District of Texas ID No. 3182479